

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LEAH ZATUCHNI,)
By her legal guardian,)
Plaintiff,)
)
v.) CIVIL ACTION
ESTELLE RICHMAN,) No. 07-cv-4600
Secretary Pennsylvania Department of Public)
Welfare, in her official capacity, et al.,)
Defendants.)
FILED
MAY 11 2009

ORDER MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

AND NOW, this 11th day of May 2009, upon consideration of Plaintiff's Motion for Leave to File an Amended Complaint [Document No. 49], and Defendants' Responses [Document Nos. 69, 70 & 71], it is hereby ORDERED that Plaintiff's Motion is GRANTED IN PART and DENIED IN PART as follows:

1. Plaintiff's Motion to substitute the "Board of Commissioners of Montgomery County in their Official Capacity" as Defendant in place of Defendants Thomas J. Ellis, James E. Matthews and Ruth S. Damsker is GRANTED as unopposed;
2. Plaintiff's Motion to remove any reference to 28 C.F.R. §§ 35.130(d) and 41.51(d) in Leah's ADA and RA claim is GRANTED as unopposed;
3. Plaintiff's Motion to assert a claim for violation of her right to due process before being deprived of property against the Board of Commissioners and its employee, Barry Milankow, is GRANTED, except that Plaintiff may not seek punitive damages from defendants sued in their official capacity, including the Board of Commissioners of Montgomery County; and

4. Plaintiff's Motion to assert a state law battery claim against Melmark and its employees, George P. Linke, Jr., Christopher H. White, Jean Calvarese-Donovan and Susan Faggioli, is **DENIED**.

Plaintiff may file an Amended Complaint on or before **May 26, 2009**.

It is so **ORDERED**.

BY THE COURT:



CYNTHIA M. RUGE
CYNTHIA M. RUFÉ, J.